



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

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CITY ATTORNEY STATEMENT ON REQUEST FOR FEDERAL GOVERNMENT TO USE EMINENT DOMAIN TO ACQUIRE MOUNT SOLEDAD WAR MEMORIAL

Today Mayor Jerry Sanders released a letter he sent to President George Bush supporting efforts by Congressman Duncan Hunter requesting that the federal government take possession of the Mount Soledad War Memorial through an eminent domain action.

Such a move may be viewed by the San Diego Superior and United State District Courts as being in violation of existing judicial orders and could result in a contempt finding and or sanctions against the City of San Diego.

In the last six months both courts have issued rulings on the matter. The State Court, ruling on the constitutionality of Proposition A, concluded that "the transfer of the memorial with the cross as its centerpiece to the federal government to save the cross as it is, where it is, is an unconstitutional aid to religion" in violation of the California State Constitution.

In a separate ruling on May 3, 2006, the Federal District Court granted a motion to enforce a 1991 injunction forbidding the presence of the cross on City property. The Federal Court ordered the City to remove the cross within 90 days or face sanctions of \$5,000 per day. In his ruling, the judge said "it is now time, and perhaps long overdue, for this Court to enforce its initial permanent injunction forbidding the presence of the Mount Soledad cross on City property."

On Monday, May 23, the San Diego City Council is expected to make a decision on whether to appeal the court rulings and pursue a stay of the federal court's sanction. The City Attorney believes consideration of these appeals is a proper action to take because they fall within the city's legal rights.

As the City Attorney, I have said previously we are free to disagree with these court orders but not to disobey or defy them.

On Thursday, May 18, the City Attorney's Office will hold a community forum to discuss the various options that are available to the City of San Diego regarding the Mount Soledad War Memorial. The meeting is open to the public. It will begin at 6:00 p.m. in the City Council Chambers, 12th floor, 202 C Street in downtown San Diego.

Michael Aguirre
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